



U.S. Department of Justice

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June 6, 2019

BY ECF

The Honorable James L. Cott
United States Magistrate Judge
Southern District of New York
Daniel Patrick Moynihan U.S. Courthouse
500 Pearl Street
New York, New York 10007

Re: *The New York Times Company, et al. v. Department of Education*
No. 19-cv-693 (LTS) (JLC)

Dear Judge Cott:

This Office represents the United States Department of Education (“DOE” or “Defendant”) in connection with the above-referenced action brought pursuant to the Freedom of Information Act. I write on behalf of both parties to provide the Court with a status update regarding document production as required by the Court’s order (the “Scheduling Order”) dated April 25, 2019. *See* Dkt. No. 15.

On May 10, 2019, Defendant produced 522 pages of documents to Plaintiffs. As requested by Plaintiffs, these documents were comprised of emails from the account of United States Secretary of Education Betsy DeVos. On May 30, 2019, Defendants produced 515 pages of documents, which were also comprised of Secretary DeVos’ emails. Accordingly, Defendant has produced 1,037 pages of documents to date. As to Secretary DeVos, 1,525 pages of emails remain to be produced.¹

The parties have agreed on the priority of the first four custodians, and Defendant will produce documents accordingly. Pursuant to the Scheduling Order, Defendant will make another production of 500 pages on July 1, 2019.² *See* Scheduling Order at ¶ 1. Within 14 days of this July 1 production, Plaintiffs shall indicate to Defendant any email attachments they seek from

¹ Defendant does not have an exact number of the total amount of documents remaining to be produced because it is still in the process of reviewing the unproduced documents for responsiveness.

² While the Scheduling Order requires the next production to be made on June 30, 2019, the parties have agreed that, because June 30 is a Sunday, the next production may be made on July 1, 2019.

Page 2 of 2

the first three productions. *Id.* at ¶ 2. Within 30 days of Plaintiffs' identification of the sought attachments, Defendant shall produce those attachments. *Id.* at ¶ 4. To the extent those attachments do not amount to 1,000 pages, Defendant will additionally produce email correspondences in order to reach the 1,000 page requirement. *Id.* To the extent those attachments amount to more than 1,000 pages, then Defendant will produce 1,000 pages of attachments and, 30 days thereafter, make another production encompassing the remainder of those attachments and additional email correspondence in order to reach the 1,000 page requirement. *Id.* The parties will follow this same procedure for subsequent productions. *Id.* at ¶ 5.

The parties thank the Court for its attention to this matter.

Respectfully,

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